

**Great Lakes Decorating Services, Inc. and David Dine, a Sole Proprietor d/b/a Great Lakes Industrial Decorating and a/k/a Great Lakes Industrial Decorating Services, Inc., a Single Employer and Local 1803, International Brotherhood of Painters and Allied Trades, AFL-CIO.**  
Case 7-CA-34131

## DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH

Upon a charge filed by the Union on January 19, 1993, and amended on February 11, 1993, the General Counsel of the National Labor Relations Board issued a complaint against Great Lakes Decorating Services, Inc. and David Dine, a Sole Proprietor d/b/a Great Lakes Industrial Decorating and a/k/a Great Lakes Industrial Decorating Services, Inc., a Single Employer (the Respondents), alleging that they have violated Section 8(a)(1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondents failed to file an answer.

On May 24, 1993, counsel for the General Counsel filed a Motion for Default Summary Judgment with the Board. On May 28, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondents filed no response. The allegations in the motion are therefore undisputed.

### Ruling on Motion for Default Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all of the allegations in the complaint shall be considered to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the motion disclose that by letter dated April 16, 1993, the Acting Regional Attorney for Region 7 notified the Respondents that unless an answer was received by April 30, 1993, a Motion for Default Summary Judgment would be filed. To date, no answer has been filed by the Respondents.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Default Summary Judgment.

On the entire record, the Board makes the following

### FINDINGS OF FACT

#### I. JURISDICTION

Respondent Great Lakes Decorating Services, Inc., a corporation with an office and place of business in Bay

City, Michigan, has been engaged as a painting and decorating contractor in the construction industry doing commercial and residential construction and renovation. Respondent Great Lakes Industrial Decorating, a Sole Proprietorship owned by David Dine with an office and place of business in Bay City, Michigan, has been a painting and decorating contractor in the construction industry doing commercial and residential construction and renovation. At all relevant times, both employers have been affiliated business enterprises with common officers, ownership, management, and supervision. They have formulated and administered a common labor policy, have shared common premises and facilities, including a phone, shared common administrative and clerical functions, including functions related to sales, purchasing, payroll, and bookkeeping, and have interchanged personnel. On the basis of the above undisputed facts, we find, as alleged in the complaint, that the Respondents constitute a single integrated business enterprise and a single employer.

During the 12-month period ending January 19, 1993, a representative period, the Respondents, in the conduct of their business operations, collectively purchased and received at their Michigan jobsites goods valued in excess of \$50,000 from other enterprises, including West Side Decorating Center, Inc., Sherwin-Williams Company, and Glidden Paint and Wallcovering, located within the State of Michigan, each of which received these goods directly from points located outside the State of Michigan. We find that the Respondents are employers engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

#### II. ALLEGED UNFAIR LABOR PRACTICES

On various dates since about August 1992, the Respondents, through their agent David Dine,<sup>1</sup> terminated or failed to recall or to offer work to employees, including but not limited to, Wayne Van Sumerin, Gerald Gerzeski, Reginald Morris, Shawn Chamberlain, James Chinnery, Todd Voelker, and Terry McMann. The Respondents engaged in said conduct because of the employees' concerted protests regarding the nonpayment of wages. Also, in about October 1992, the Respondents, through Dine at the Bay City jobsite, told employees they should not talk to representatives of the Union or tell the Union's agents their pay rates. By engaging in the above conduct, the Respondents have interfered with, restrained, and coerced employees in the exercise of the rights guaranteed them in

<sup>1</sup> The complaint alleges, and we find, that David Dine is a supervisor and agent of the Respondents within the meaning of Sec. 2(11) and (13) of the Act.

Section 7 of the Act, and has violated Section 8(a)(1) of the Act, as alleged.

#### CONCLUSION OF LAW

By terminating or failing to recall or to offer work to employees because they engaged in protected concerted activity, and by telling employees that they should not talk to the representatives of the Union or tell its agents their pay rates, the Respondents have interfered with, restrained, and coerced employees in the exercise of their Section 7 rights, and have thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondents have engaged in certain unfair labor practices, we shall order them to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

The Respondents shall be required to offer reinstatement to their former or substantially equivalent jobs, without prejudice to any seniority or other rights previously enjoyed, all employees who were terminated, not recalled, or not offered work because they engaged in protected concerted activity, including but not limited to, Wayne Van Sumerin, Gerald Gerzeski, Reginald Morris, Shawn Chamberlain, James Chinnery, Todd Voelker, and Terry McMann, and to make them whole at the contract rates for any loss of earnings or benefits they may have sustained as a result of the Respondents' unlawful conduct, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest on such amounts to be computed as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). We shall also order the Respondents to remove from their files any and all references to the unlawful discharges, and to notify the affected employees, in writing, that it has done so.

#### ORDER

The National Labor Relations Board orders that the Respondents, Great Lakes Decorating Services, Inc. and David Dine, a Sole Proprietor d/b/a Great Lakes Industrial Decorating and a/k/a Great Lakes Industrial Decorating Services, Inc., a Single Employer, Bay City, Michigan, their officers, agents, successors, and assigns, shall

##### 1. Cease and desist from

(a) Terminating, failing to recall, or failing to offer work to employees, including but not limited to em-

ployees Wayne Van Sumerin, Gerald Gerzeski, Reginald Morris, Shawn Chamberlain, James Chinnery, Todd Voelker, and Terry McMann, because of the employees' concerted protests over the nonpayment of wages.

(b) Telling employees that they should not talk to representatives of the Union or tell their pay rates to the Union's representatives.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Offer employees, including but not limited to, Wayne Van Sumerin, Gerald Gerzeski, Reginald Morris, Shawn Chamberlain, James Chinnery, Todd Voelker, and Terry McMann, who were terminated, not recalled, or not offered work because of their protected concerted activities immediate and full reinstatement to their former or substantially equivalent jobs, without prejudice to any seniority or other rights and privileges previously enjoyed, and make them whole at the contract rates for any loss of pay or other benefits they may have suffered as a result of the Respondents' discriminatory conduct, with interest, as set forth in the remedy section of this decision.

(b) Remove from their files any and all references to the unlawful discharges and notify the employees, in writing, that it has done so.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amounts due under the terms of this Order.

(d) Post at their facility in Bay City, Michigan, copies of the attached notice marked "Appendix."<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. June 28, 1993

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James M. Stephens,	Chairman
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Dennis M. Devaney,	Member
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John Neil Raudabaugh,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD

#### APPENDIX

##### NOTICE TO EMPLOYEES

##### POSTED BY ORDER OF THE

##### NATIONAL LABOR RELATIONS BOARD

##### An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT terminate, fail to recall, or fail to offer work to employees, including but not limited to employees Wayne Van Sumerin, Gerald Gerzeski, Reginald Morris, Shawn Chamberlain, James Chinnery, Todd Voelker, and Terry McMann, because of their

concerted protests regarding the nonpayment of wages, and WE WILL NOT tell employees that they should not talk to representatives of the Union or tell union representatives their pay rates.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL offer immediate and full reinstatement to their former or substantially equivalent jobs to all employees, including but not limited to Wayne Van Sumerin, Gerald Gerzeski, Reginald Morris, Shawn Chamberlain, James Chinnery, Todd Voelker, and Terry McMann, who were terminated, not recalled, or not offered work by us on various dates since about August 1992 for having engaged in protected concerted activity, without prejudice to any seniority or other rights and privileges previously enjoyed, and WE WILL make them whole for any loss of pay or benefits they may have suffered as a result of our discriminatory conduct, with interest.

WE WILL remove from our files any and all references to the unlawful discharges and will notify the affected employees, in writing, that we have done so.

GREAT LAKES DECORATING SERVICES,  
INC. AND DAVID DINE, A SOLE PROPRI-  
ETOR D/B/A GREAT LAKES INDUSTRIAL  
DECORATING AND A/K/A GREAT LAKES  
INDUSTRIAL DECORATING SERVICES,  
INC., A SINGLE EMPLOYER